

## **CHAPTER 941: STORMWATER MANAGEMENT CODE**

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## **INTRODUCTION**

### **§ 941.00 GENERAL.**

The purpose of the Stormwater Management provision contained in this chapter and other related provisions contained elsewhere in the Code is to provide for effective management and financing of a stormwater system within the Village.

A. In order to accomplish the purpose of effective financing of a stormwater system within the Village, the chapter shall:

1. Establish and maintain fair and reasonable stormwater management service charges for each lot or parcel in the Village which bear a substantial relationship to the cost of providing stormwater management services and facilities. Such service charges shall be charged because each property contributes to stormwater runoff and benefits from effective management of stormwater by the Village of Canal Winchester.
2. Ensure that similar properties pay similar stormwater management service charges which reflect the area of each property and its intensity of development, since these factors bear directly on the peak rate of stormwater runoff. Charges for residential properties shall reflect the relatively uniform effect that such development has on runoff. Charges for all other properties shall be in proportion to residential properties of two or less dwelling units, utilizing both relative area and intensity of development in setting rates;
3. Provide a mechanism for consideration of specific or unusual service requirements of some properties, and special and general benefits accruing to or from properties as a result of providing their own stormwater management facilities;
4. Provide for a service charge adjustment process to review stormwater charges when unusual circumstances exist which alter runoff characteristics, when either service or benefit varies from a normal condition or is of greater significance than contribution to runoff or to periodically ensure that rates reflect the current costs of effective stormwater management; and
5. Utilize stormwater management funds throughout the Village, except where activities or facilities are clearly unusual and in excess of the normal level of service Village wide and where developers are responsible for providing any new stormwater facilities required for their project.

B. In order to maintain its effectiveness this chapter shall:

1. Establish a mechanism for appeals and amendments to its provisions;
2. Provide a procedure for abatement of conditions or activities which are not in the interest of public health, safety or welfare;
3. Provide for its continuous validity through severability of its various portions; and
4. Provide penalties for violations of its provisions.

## **§ 941.01 DEFINITIONS.**

For the purpose of this chapter, the words and phrases shall be defined as follows, unless the context clearly indicates or requires a different meaning.

**ABATEMENT.** Any action taken to remedy, correct, or eliminate a condition within, associated with or impacting a drainage system, pursuant to § 941.22 or § 941.23 of this chapter.

**APPEALS BOARD.** The Stormwater Management Utility Appeals Board whose duties shall be pursuant to § 941.24 of this chapter. The Service Committee of Council shall serve as the Appeals Board unless it shall by resolution designate another board. The Director of Public Works or Clerk of Council or designee shall serve as the executive secretary of the Appeals Board.

**COUNCIL.** The Council of Canal Winchester, Ohio.

**CREDIT.** A reduction in a customer's stormwater service fee given for certain qualifying activities which reduce either the impact of increased stormwater runoff or reduces the Village's costs of providing stormwater management. The qualifying activities are prescribed herein.

**DETENTION BASINS.** Dry surface stormwater storage areas created by natural contours or by constructing a basin by excavation or embankment or by installing underground structures such as concrete pipes or chambers.

**DEVELOPER.** A person, firm, partnership or corporation, which otherwise improves a specific parcel or tract of land, performs construction work of any kind in the "project area" as defined in this section or holds or is required to obtain a "permit" as defined in this section.

**DIRECTOR.** The Director of Public Works shall serve as Director of the Stormwater Management Utility.

**EMBANKMENT.** Any act by which earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface or cut and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; a fill or the material used to make an embankment.

**ENGINEER, PROFESSIONAL.** A person holding a certificate of registration under R.C. §§ 4733.14 or 4733.19.

**EROSION.** The wearing away of the land surface by the action of wind, water or gravity.

**EXCAVATION.** Any act by which earth, sand, gravel, rock or any other similar material

is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom. The difference between a point on the original ground and designated point of lower elevation on the final grade; cut or the material removed in excavation.

EXISTING. Present or in effect as of the time of the adoption of this chapter.

FACILITIES. Various drainage works that may include inlets, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.

GRADING. Any stripping, cutting, filling, stockpiling, or any combination thereof and shall include the land in its cut or filled condition.

IMPROVED PROPERTIES. Improved properties shall be defined as those in which contain impervious areas located upon them. ...

MUNICIPAL. Property or facilities owned by the Village of Canal Winchester, Ohio.

NOTICE. A written or printed communication conveying information or warning.

ORDER. The whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) or any matter issued by the Director or person designated by them pursuant to any provisions of this chapter.

OWNER. Any person, business or organization that possesses real property.

PERMIT. The "stormwater management permit" required by this chapter.

PERSON. Any person, firm or corporation (public or private), the State of Ohio and its agencies or political subdivisions and the United States of America, its agencies and instrumentalities, and any agent, servant, officer, or employee of any of the foregoing.

PREMISES. A lot or parcel and the buildings and improvements situated thereon.

PRIVATE. Property or facilities owned by individuals, corporations, and other organizations and not by local, state, or federal government.

PROJECT AREA. The land lying within the geographical limits of the tract(s) or parcel(s) under consideration and on which the work is to be performed.

PUBLIC. Property or facilities owned by local, state, or federal governments.

PUBLIC STORMWATER OPEN CHANNEL.

1. all open channels which convey, in part or in whole, stormwater;

2. is an open channel which has a permanent drainage/stormwater easement owned by the Village of Canal Winchester or is located within Village of Canal Winchester owned property, and
3. drains an area which includes Village of Canal Winchester owned property or public right-of-way. A public stormwater open channel does not include roadside ditches which convey only immediate right-of-way (roadside) drainage.

**RETENTION BASINS.** Permanent ponds where additional stormwater storage capacity is provided above the normal water level.

**ROUTING.** An engineering technique described as computation of the movement and attenuation of an inflow hydrograph as it passes through the stormwater system, resulting in a discharge hydrograph at the downstream end of an element such as a pipe, channel, or detention basin, and accounts mathematically for the effects of storage on flow through the element. Level pool routing assumes that a retention/detention facility maintains an "even" or "level" surface water elevation.

**SEDIMENT.** Solid material both mineral and organic, that is in suspension, is being transported, or has been moved from its original site or origin by air, water, or gravity as a product of erosion.

**SEDIMENT CONTROL PLAN.** A plan required by an ordinance, rule, or regulation for controlling the movement of soils due to storm runoff created by construction activities.

**STORM, STORMWATER.** Storm and stormwater as used in this chapter are interchangeable terms.

**STORM SEWER, STORM DRAIN.** A sewer or drain which carries stormwaters, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water. Storm sewers begin at the grating or opening where water enters the structure, through the sewer and conduits to the outlet structure where water enters a channel or natural watercourse.

**STORMWATER MANAGEMENT CODE.** Chapter 941 of Canal Winchester Village Code of Ordinances.

**STORMWATER MANAGEMENT DESIGN MANUAL.** A handbook of design methods, standards, and requirements for the design, construction, maintenance, and use of stormwater facilities written by and available from the Village, as part of the Village Code.

**STORMWATER MANAGEMENT SYSTEM.** All man-made facilities, structures, and natural watercourses used for collecting, transporting, detaining, storing or disposing of stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to any and all of the following: inlets, conduits and appurtenant features,

canals, creeks, channels, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, and pumping stations.

**TOTAL AREA.** The square footage of a lot or parcel measured or estimated by using the outside boundary dimensions, in feet, converted to acres (one acre equals 43,560 square feet), to obtain the total enclosed area, without regard for topographic features of the enclosed surface, as used in § 941.16 for the purpose of determining the rate class for lot(s) or parcel(s) of real property. The boundary dimensions in feet of the enclosed surface area may be established by any of the following methods selected by the Utility for each lot or parcel:

1. On site or photogrammetric measurements of the apparent outside boundary dimensions of the lot or parcel of real property made by the Village or on its behalf; or
2. Computation of the area using dimensions of lot or parcel of real property and/or existing area measurements which are set forth and contained in the records of the office of the Village Recorder or Auditor.

**UTILITY.** The Stormwater Management Utility provided for by this chapter, which may be operated or organized as a department of the Village of Canal Winchester, Ohio.

**VILLAGE.** The Village of Canal Winchester, Ohio.

**VILLAGE ENGINEER.** A professional engineer designated by and representing the Village of Canal Winchester, Ohio or his authorized agent.

**WATERCOURSE.** A permanent or intermittent stream, river, brook, creek, channel, swale or ditch for water whether natural or manmade.

## **ORGANIZATION AND OPERATION**

### **§ 941.02 ORGANIZATION OF THE UTILITY.**

- A. The Utility shall be administered by the Director and shall have the responsibility for planning, developing, and implementing stormwater management or sediment control plans; financing, constructing, maintaining, rehabilitating, inspecting, and managing existing and new stormwater facilities; collecting fees and charges for the Utility; implementing and enforcing the provisions of this Code.
- B. The Utility may avail itself of the services of other Village departments necessary for the discharge of its responsibilities. Services of finance, personnel, law, public works, engineering, and the like, which are used by the Utility shall be provided at cost.

### **§ 941.03 STORM WATER FACILITIES.**

- A. The Utility shall monitor the design, operation, maintenance, inspection, construction

and use of Storm Sewers, Storm Drains, and Stormwater Facilities in the Village. The Utility shall be responsible for the design and construction of public stormwater facilities in the Village and shall operate and maintain as prescribed in § 941.09.

- B. The Utility may accept overriding responsibility for permanent maintenance of stormwater facilities designed to control erosion when the benefiting area involves two or more property owners. The Utility may require facilities to be designed to reduce maintenance cost and will require adequate easements.

### **§ 941.031 ILLICIT DISCHARGE AND OBSTRUCTION**

- A. A person commits an offense if the person introduces, or causes to be introduced, into the storm drainage system any discharge that is not composed entirely of stormwater.
- B. It is an affirmative defense to any enforcement action for a violation of subsection (A) that the discharge was composed entirely of one or more of the following categories of discharges:
  - 1. A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
  - 2. A discharge or flow resulting from fire fighting by the Fire Department;
  - 3. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
  - 4. Uncontaminated agricultural stormwater runoff;
  - 5. A discharge or flow from water line flushing or disinfection that contains no harmful quantity of total residual chlorine (TRC) or any other chemical used in line disinfection;
  - 6. A discharge or flow from lawn watering or landscape irrigation;
  - 7. A discharge or flow from a diverted stream flow or natural spring;
  - 8. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
  - 9. Uncontaminated groundwater infiltration (as defined at 40 C.F.R. 35.2005(20)) to the MS4;
  - 10. Uncontaminated discharge or flow from a foundation drain, crawl space pump, or footing drain;
  - 11. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
  - 12. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
  - 13. A discharge or flow from individual residential car washing;
  - 14. A discharge or flow from a riparian habitat or wetland;
  - 15. A discharge or flow from cold water (or hot water with prior permission of the Director) used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;

16. Drainage from a private residential swimming pool or hot tub/spa containing no harmful quantities of chlorine or other chemicals. Drainage from swimming pool filter backwash is prohibited;
  17. A discharge or flow of uncontaminated storm water pumped from an excavation or existing pond.
- C. No affirmative defense shall be available under subsection (b) if:
1. The discharge or flow in question has been determined by the Director to be a source of a pollutant or pollutants to the waters of the United States or to the waters of the State or to the MS4;
  2. Written notice of such determination has been provided to the discharger;
  3. The discharge has continued after the expiration of the time given in the notice to cease the discharge;
  4. A person commits an offense if the person introduces or causes to be introduced into the MS4 any harmful quantity of any substance.
- D. Definitions. For the purpose of this chapter, certain rules or word usage apply to the text as follows:
1. Municipal Separate Storm Sewer System (MS4): "Municipal Separate Storm Sewer System" or "MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
    - a. Owned or operated by the City;
    - b. Designed or used for collecting or conveying storm water;
    - c. Which is not a combined sewer; and
    - d. Which is not part of a Publicly Owned Treatment Works (POTW) as defined by Title 40 Code of Federal Regulations Part 122.2 (40 CFR 122.2).
- E. Whoever violates this section as described in Section 941.99.

#### **§ 941.04 EROSION, SILTATION, AND SEDIMENTATION.**

The Utility shall be responsible for controlling erosion, siltation and sedimentation that will adversely affect storm sewers, drainage ditches, watercourses, and other drainage facilities.

#### **§ 941.05 MULTIPLE FUND PROJECTS.**

Where a public improvement is funded by the Village and other agencies or organizations, and storm drainage is not a primary part of that project, the Utility's responsibility for the storm drainage costs shall be in proportion to the Village's share of the total cost of the project unless otherwise determined by Council.

#### **§ 941.06 PRIVATE FACILITIES.**

Any owner or possessor of Private Property upon which stormwater drainage facilities exist for the purpose of collecting, conveying, retaining or detaining stormwater within that property and which are not public facilities pursuant to § 941.07 of this chapter, shall be responsible for the maintenance of these facilities as required to ensure proper



operation and in accordance with § 941.22, maintaining property in litter-free manner, maintaining grass and weeds in accordance with § 521.12.

When the Utility accepts responsibility for design, construction, inspection, operation or maintenance of private facilities in accordance with § 941.03 of this chapter, all expenses incurred therewith shall be the responsibility of the Utility.

The Village reserves the right to cooperatively work with property owners in an area to fix a common problem related to stormwater. This means that financial arrangements may be agreed to between the Village and property owners which result in an equitable arrangement that benefits all parties.

#### **§ 941.07 PUBLIC FACILITIES.**

The Utility shall be responsible for stormwater drainage facilities and watercourses on all streets, boulevards, sidewalks, curbing, street and other municipal property and public easements, and highway structures and appurtenances belonging to the Village.

Where public facilities and watercourses are located in easements on private property, the owner of the property is responsible for aesthetic maintenance such as lawn mowing, litter pick-up, and the like. The owner shall neither place nor allow structures or plantings that interfere with the operation and maintenance of such drainage facilities and watercourses.

#### **§ 941.08 ANCILLARY IMPROVEMENTS.**

The Utility may authorize the construction of curbs, pavements, channels, watercourses, conduits, culverts, or other structures on Municipal property or public easements necessary to properly operate and maintain new and existing stormwater facilities.

#### **§ 941.09 ROUTINE AND REMEDIAL MAINTENANCE.**

The Utility shall provide for inspection and routine maintenance of facilities that have been accepted for maintenance by the Utility. Maintenance may include catch basin cleaning, grating and casting repair, bridge surface drainage systems cleaning, channel clearing, erosion repair, and other incidentals. The Utility shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public. Remedial maintenance of bridge surface drainage systems shall remain the responsibility of agencies other than the Utility.

#### **§ 941.10 LAND AND FACILITIES AFFECTED BY LANDS OUTSIDE THE VILLAGE.**

Where stormwater drains from lands outside the Village, facilities within the Village shall be designed in accordance with this chapter as if the entire drainage area was within the Village, as determined by the Director.

## **§ 941.11 RULES AND REGULATIONS.**

- A. In order to accomplish the purpose of this chapter to protect the drainage facilities, improvements, and properties owned and maintained by the Village, to secure the best results from the construction, operation, and maintenance thereof, and to prevent damage and misuse of any of the drainage facilities, improvements, or properties within the Village, the Utility shall utilize existing rules, regulations or codes and may make and enforce additional rules and regulations that are approved by Council, and are necessary and reasonable:
1. To prescribe the manner in which storm sewers, watercourses, channels, and other stormwater facilities are to be designed, installed, adjusted, used, altered or otherwise changed;
  2. To recommend inspection and certain other fees permitted by this chapter;
  3. To prescribe the manner in which such facilities are operated;
  4. To facilitate the enforcement of this chapter;
  5. To prescribe the collection procedures and timing of service charge bills;
  6. To protect the municipal stormwater management system, improvements, and properties controlled by the Utility, and to prescribe the manner of their use by any public or private person;
  7. To protect the public health, safety, and welfare.

## **§ 941.12 RIGHT OF ENTRY FOR SURVEY, EXAMINATION AND MAINTENANCE.**

After presenting proper credentials, the Director or designees, including contractors and their employees or consultants and their employees, may enter upon lands within the Village to make surveys and examinations to accomplish the necessary findings to establish a master plan, for detailed analysis to prepare final plans and specifications for proposed improvements or for inspection or maintenance of stormwater facilities.

## **FINANCE PROVISIONS**

### **§ 941.13 FUNDING.**

Funding for the Utility shall include, but not be limited to:

- A. Stormwater management service charges;
- B. Direct charges. This charge will be collected from owners, developers and others for the cost of designing and constructing stormwater facilities, and for administrative costs and related expenses where the Utility designs and/or constructs or contracts for the construction of such facilities, including costs associated with abatement procedures undertaken by the Utility;
- C. Direct assessment. This charge will be collected from owners in localized areas that desire stormwater drainage facilities not considered a part of the regional development or where an improvement is desired ahead of the priority status;
- D. Other income obtained from federal, state, local, and private grants, or revolving funds.

#### **§ 941.14 STORMWATER UTILITY FUND.**

All revenues generated by or on behalf of the Utility including stormwater management service charges and direct charges and interest earnings on those revenues shall be deposited in the Stormwater Utility Fund and used exclusively for Utility purposes.

#### **§ 941.15 STORMWATER MANAGEMENT SERVICE CHARGE.**

A stormwater management service charge is imposed on each improved lot and/or parcel of land within the Village, and the owner thereof, excepting only streets, boulevards, curbing, street crossings, grade separations, and other public ways and easements, and highway structures belonging to the Village, state and federal government. If individual adjacent lot(s) or parcel(s) are all owned by the same owner, they shall be considered to be a single parcel for determination of service charges.

- A. Public road and freeway rights-of-way shall be exempt from the stormwater management service charge because they function as part of the stormwater collection and conveyance system. Private rights-of-way will be charged as described herein.
- B. Properties that have existing stormwater detention facilities, or those planning such facilities, may have their stormwater management service charges reduced as determined by the Utility, in accordance with generally accepted engineering standards and practices to more accurately reflect the contribution to runoff from the property and the level of service provided to such property. The detention facilities must be in accord with the hydrologic, hydraulic, and structural design requirements of the rules and regulations. Facilities of a temporary nature will not be allowed a decrease in their charges.
- C. The Utility may reduce or waive requirements for an individual detention/retention basin if a common or regional basin of adequate design is available or if the Utility is reasonably certain one will be constructed and if the major drainage system from the project area to such common or regional basin is such that the public health, safety and welfare will not be in jeopardy.

The stormwater management service charge is based on the usage of the stormwater system by each customer. It is predicated on the calculations listed below. These costs are a function of stormwater system usage (or impervious area).

#### **§ 941.16 CLASSIFICATION OF PROPERTY.**

There shall be two classifications of property for determination of the stormwater management service charge:

- A. Class R. One and two-family residential properties, and condominiums up to four units per structure and used solely as a residence.
- B. Class C. All non-residential property and residential property not included in Class R. The total area (acres to the nearest 0.01) of each Class C property will be determined as defined in § 941.01.

## **§ 941.17 CUSTOMER CHARGE**

The Utility will maintain a list of all lots and parcels within the Village which are subject to the customer charge and provide billing per the rate schedule below.

- A. All properties having impervious area within the Village of Canal Winchester will be assigned an Equivalent Residential Unit (ERU) or a whole multiple thereof, with all improved properities having impervious area receiving at least one (1) ERU.
- B. All Single Family Properties will be assigned one ERU.
- C. Non-single Family properies will be assigned an ERU whole multiple based upon the properties individual measured impervious area (in square feet) divided by 3,001 square feet (1 ERU). This division will be calculated to the first decimal place and rounded to the nearest whole ERU according to mathematical convention.
- D. The charge as prescribed in the rate schedule is as follows: \$3.00 per month per Equivalent Residential Unit (ERU) based on twelve (12) months per year.

## **§ 941.18 CREDITING MECHANISM**

Credits or adjustments can be made to non-single family service charges for qualified property owners performing activities that reduce the impact of stormwater runoff to the stormwater system, as follows:

- A. Education Credits.
  - 1. General Policies.
    - a. This program is available to all schools as defined in the zoning code, public or private that offer a compulsory education curriculum for grades pre-K through 12 or part thereof.
    - b. Credits will be issued on a building complex by building complex basis.
    - c. Where a site is jointly used by a school and another use (e.g. church) the stormwater fee will be prorated based on usage and the credit will be issued to the school portion of the fee.
    - d. In no case will the total credit amount be more than the cap identified in Section 941.18 (F)
  - 2. Credits Available. Stormwater education credits of 50% of the stormwater bill may be granted for approved programs providing public awareness and education on stormwater issues as follows:
    - a. Stormwater Educational Curriculum (e.g. Project WET and Project Aquatic WILD) integrated into standard curriculum for 35% of the students in the school;
    - b. Stormwater Educational Activities (e.g. essay contest, poster contest) with participation of 35% of the students;
    - c. Public Service Activities (e.g. Adopt a Road, Adopt a Stream or inlet stenciling) involving 5% of the students or utilizing student recruited adults. Where adults are recruited, they shall be credited with 3 equivalent students per each adult participant;
    - d. In Kind Services (e.g. web site development, brochure development, public service announcements, videos or other program related work) as approved by the Director;

- e. A combination of the above items for an equivalent student participation of 35% or as approved by the Director.
- 3. Basic Procedures.
  - a. In order to receive educational credits, the school will need to submit an application including an education plan. The application will be due by October 1, of each year. The plan shall be reviewed and approved by the Director. Once approved, the credit shall be placed on the appropriate stormwater bill.
  - b. Upon completion of the educational plan or no later than October 1 of each year, the school shall submit an annual report indicating compliance with the approved plan. The annual report shall be broken down by the types of activities and indicate the number of participants. If the school did not substantially comply with the plan, the report will include an explanation of the failure and any needed corrective action. Other reporting requirements may be required as part of the plan approval and shall be included in the annual report.
  - c. The annual report will be reviewed by the Director. If upon review, the school did not substantially comply with the approved plan, the Village may:
    - i. Require additional activities as a corrective action;
    - ii. Reduce the education credit to a level comparable with the compliance;
    - iii. Revoke the education credit and require repayment in accordance with Section 941.17;
    - iv. Refuse approval of any new education plan.
- B. Retention/Detention Credit.
  - 1. General Policies.
    - a. This program is available to all non-single family properties or part thereof.
    - b. Credits will be issued on a property by property basis for only the portion of the property tributary to the retention/detention facility.
    - c. When a facility is jointly used by several non-single family properties under a joint use agreement, including deed restriction, the credit shall be prorated among the properties as a percentage of the tributary area.
    - d. In no case will the total credit be more than the cap identified in Section 941.18 (F).
  - 2. Credits Available. Retention/Detention credits may be granted for approved facilities that reduce the quantity of stormwater and/or improve the water quality of stormwater as follows:
    - a. The minimum amount of reduction (credit) available for meeting minimum retention/detention design, construction, and maintenance standards is 20 percent. The minimum 20 percent credit will be given to all eligible properties which have constructed a retention/detention facility in accordance with Village policy, provided;
      - i. such facility meets design, construction, and maintenance standards in effect at the time of construction;
      - ii. for which a complete credit application form has been submitted;
      - iii. there has been provided to the Village a signed right-of-entry by the owner thereof; and

- iv. there is paid to the Village for such property a one-time, non-refundable application/inspection fee of \$250.00 for the first retention/detention facility and \$100.00 for each additional retention/detention facility on the same property.

- b. The retention/detention credit is also available beyond the twenty percent reduction under the following conditions:

The amount of reduction, if any, is based upon the following:

$$P = (0.8 - 0.3 * (Q_a / Q_t)) * 100$$

where:

P is the percent reduction in stormwater fee to be applied to the property.

Q<sub>a</sub> is the actual peak flow determined by calculating the peak flow of a design storm from the retention/detention facility, using the "level pool routing" technique.

Q<sub>t</sub> is the target peak flow from the design criteria, as defined in Chapter 941.

- c. SCS standard methodologies shall be used for all calculations when determining actual peak flow.
- d. The retention/detention credit beyond the twenty percent reduction is available upon successful completion of the application process, including the submittal of all necessary engineering calculations, documentation, proof of required information, signed and stamped by a professional engineer registered in the State of Ohio.
- e. The maximum amount of percent reduction (credit) available for reducing discharge from the property to zero is 50 percent.
- f. Retention/detention credit is available only for those eligible properties whose retention/detention facilities meet Village design, construction and maintenance standards.
- g. For facilities constructed after the effective date of this regulation, the credit will be made effective to the later of either the date of submittal of a successful application, or the date stormwater billing for that property began (if all requirements and conditions of this rule and regulation are met).
- h. Failure to operate or maintain the facility as designed shall be reason for forfeiture of the credit. The Village shall notify the property owner/operator of the facility's deficiencies.

C. Maintenance Credit.

1. General Policies.

- a. This program is available to all non-single family residential properties who maintain public stormwater open channels and are eligible to receive a direct cost reduction (credit) in the property's stormwater service fee.
- b. Credits will be issued on a property by property basis.
- c. In no case will the total credit be more than the cap identified in Section 941.18 (F).

- 2. Credits Available. Maintenance credits may be granted to properties that maintain public stormwater open channels or to property owners who participate in an approved Adopt-A-Road/Stream/Park or other sanctioned Village clean up

program. Maintenance credits may be granted to reduce operation and maintenance costs to the Village as follows:

- a. A credit of up to 30% may be given for maintaining public stormwater open channels.
- b. A credit of up to 20% may be given for participation in an approved Adopt-A-Road/stream/park program. The credit will be based on a signed contract to provide litter collection on a one-mile section of roadway, stream section or park area on a schedule to be approved by the Director. The minimum term of the contract shall be three clean ups per year for a three year period.
- c. A credit of up to 20% may be given for participation in a sanctioned Village clean up program. The credit will be calculated as 2% for each 5 participants in the cleanup program. The credit shall be granted for a period of no more than one year from the sanctioned program.

3. Basic Procedures.

- a. In order to receive a Maintenance credit, the non-single family property owner will need to submit an application, right of entry easement, if applicable, a maintenance plan and any required engineering plans and calculation stamped by a registered professional engineer. If approved, the credit shall be placed on the appropriate stormwater bill.
  - i. For public stormwater open channels draining an area of 10 acres or larger, the property will receive a stormwater service fee credit of one dollar (\$1.00) per year per lineal foot of public stormwater open channel maintained and meeting all applicable sections of this regulation.
  - ii. For public stormwater open channels draining an area less than 10 acres, the property will receive a stormwater service fee credit of fifty cents (\$0.50) per year per lineal foot of public stormwater open channel maintained and meeting all applicable sections of this regulation.
- b. The Director or designee shall inspect the property to determine if the proposed maintenance will reduce operation and maintenance costs to the Village. If the proposal is approved for maintenance credit, the Director shall periodically inspect the property to insure compliance with the approved maintenance plan.
- c. In order to receive credit for participation in an approved Adopt-A-Road Program, the property owner will need to submit an application and a request for roadway designation. Only roadways designated by the Director shall be approved for adoption and clean-up work must be completed in accordance with an approved schedule.
- d. In order to receive credit for participation in a sanctioned clean-up program, the property owner will need to submit an application and tentative list of participants. Participants must register at the event and identify themselves as credit program participants.
- e. Failure to maintain the open channel to the minimum standards set forth in this regulation shall be reason for forfeiture of a portion or all of this credit. The Village shall notify the property owner of this forfeiture and actions necessary to receive full credit.

- D. Credit applications will not be accepted from any property that has a delinquent utility account.
- E. Credits apply only to the non-single family property in which the activity applies. Credits may not be transferred to other properties.
- F. The total amount of all credits issued under this Section may not exceed 80% of the stormwater bill for the property.

#### **§ 941.19 COLLECTION OF STORMWATER MANAGEMENT SERVICE CHARGE.**

The stormwater management service charge shall be paid, by the owner/occupant of each lot or parcel which is subject to this charge, on a periodic basis in accordance with regulations established herein and/or the Utility Operating Rules and Regulations adopted by Ordinance 65-09 as it presently exists or is amended..

#### **§ 941.20 ADJUSTMENT CHARGE, APPEAL.**

Anytime the runoff situation on a parcel of property changes, the stormwater utility reserves the right to correspondingly adjust the Stormwater Management service charge.

Persons who consider the charges applicable to their lot or parcel to be unjust or inequitable may apply, within 30 days after receipt of the charge, to the Appeals Board for adjustment thereof, stating in writing the grounds of the complaint according to procedures and requirements set forth by the Director.

The Appeals Board shall, within 30 days, cause appropriate investigation thereof and determine whether an adjustment of the charges for any such lot or parcel is necessary to provide for the just and equitable application of the stormwater management service charge, and adjust such charge if appropriate.

#### **§ 941.21 DELINQUENT CHARGES.**

- A. Delinquent charges are subject to utility terminations as provided in the Utility Operating Rules and Regulations adopted by Ordinance 65-09 as it presently exists or is amended.
- B. All delinquent fees shall be assessed as provided by the Utility, or as provided by the Utility's contract billing agent, if any.
- C. Unpaid charges shall constitute a lien upon the real property affected from the date charges are incurred.
- D. Charges which remain unpaid for a period of 2 quarters are subject to the filing of a suit by the Village to collect the unpaid charges.
- E. For delinquent charges, a special assessment may be filed with the Auditor of Franklin or Fairfield County, Ohio (as appropriate) as a lien upon the real property. Penalty, see § 941.99



## **ABATEMENT PROCEDURES**

### **§ 941.22 NOTICE TO CORRECT IMPROPER DRAINAGE.**

- A. Whenever the Utility shall find that a tract of land is inadequately drained, or that there is an obstruction to a culvert, or water course that interferes with water naturally flowing therein or that such culvert, storm sewer or watercourse is of insufficient capacity to reasonably accommodate the flow of water, as required by this chapter, the Utility shall notify the owner or person having possession, charge, or management of such land to remove the obstruction or provide adequate drainage. Such notice shall be served on such persons by personal delivery, by registered mail at the last known place of residence, or by posting on the premises.
- B. The owner must comply with the Utility's orders within the time specified and not to exceed 30 days. Failure to comply with such order shall constitute an unlawful act. Each additional day thereafter during which the owner fails to carry out the order of the Utility shall constitute a separate offense.
  - 1. In any case where a condition described in § 941.22 exists for more than 30 days after service of notice, the Director may direct the owner to fill or drain such land, remove any obstruction and, if necessary, enlarge the culverts, drains, or watercourses to meet the requirements of this chapter.
  - 2. In the event an owner fails or refuses to comply with the Director's directive, the Utility may provide for the performance of the required work and charge the owner the abatement costs per § 941.23.
- C. Failure of the Village to observe or recognize hazardous or unsightly conditions or to recommend denial of a permit shall not relieve the developer from the responsibility for the condition or damage resulting therefrom, and shall not result in the Village, its officers or agents being responsible for any condition or damage resulting therefrom.
- D. Nothing in this chapter shall be construed as authorizing any person to maintain a private or public nuisance on his property, and compliance with the provisions of this chapter shall not be a defense in any action to abate such nuisance.
- E. Nothing in this chapter shall be construed to prevent immediate action by the Utility in emergency situations. In case of an emergency, the Utility may direct that action be taken immediately to correct the condition or abate the activity to protect the public health, safety, and welfare. The Utility may perform the required work and charge the owner the abatement costs. Penalty, see § 941.99

### **§ 941.23 ABATEMENT COSTS.**

The Utility shall account for all costs associated with an emergency or abatement including, but not limited to, administration, notification, inspection, serving of papers or documents, legal counsel, force account labor, enforcement, operational services, and outside contracted services plus and additional 2.5 times the actual cost of the work. These costs shall be billed at the discretion of the Director. This section shall not be construed to relieve the owner of any penalties prescribed by other sections of this chapter. Penalty, see § 941.99

## **APPEALS AND AMENDMENTS**

### **§ 941.24 APPEALS BOARD.**

The Service Committee of Council shall serve as the Appeals Board to hear and determine any appeal filed under § 941.25 of this chapter.

The Appeals Board shall, in harmony with the general purpose of this chapter and to secure the public health, safety and welfare, have the power to affirm, modify, or revoke any notice or order and may grant an extension of time for the performance of any act required by this chapter, or may grant a variance, except as otherwise excluded herein, where there is practical difficulty or undue hardship connected with the performance of such notice or order, and its decision shall be final.

### **§ 941.25 VARIANCES AND APPEALS.**

Any person may appeal decisions or interpretations of the Village, or his designee, issued in connection with the enforcement of any provisions of this chapter or request variances therefrom, provided that such person shall file in the office of the Village, along with the fees established by Council for appeals and variances, a written petition to the Appeals Board as provided below.

- A. The Appeals Board. The Appeals Board shall hear and determine appeals or variances to of this chapter and, upon receipt of a petition setting forth the requirements of § 941.26 and the required fee(s), the Appeals Board shall set a time and place for a public hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and show cause why any decision, interpretation or any item appearing on a notice or order should be modified or denied or a variance granted.

After a hearing, the Appeals Board shall sustain, modify or deny any item appealed or grant a variance by majority vote, depending on its findings as to whether the provisions of this chapter have been complied with, and the petitioner and the Director shall be notified in writing of such findings.

The proceedings at such hearings, including the findings and decision of the Appeals Board and reasons therefor, shall be summarized and reduced to writing and entered as a matter of public record in the office of the Director. The record shall also include a copy of every notice, order or variance issued in connection with the matter.

- B. The failure of the petitioner or his representative to appear and state his case at any hearing shall have the same effect as if no petition had been filed.
- C. Filing fees required by this section shall be in addition to the payment of the permits and inspection fees and any other fee which thereafter may occur, and no portion of such filing fee shall be refunded whatever the outcome of the appeal unless such petition shall have been withdrawn prior to the date set for such hearing.

## **§ 941.26 CONTENTS OF PETITION.**

The complainant shall set forth in the petition for appeal, the interpretation, ruling or order appealed from, and the related provisions of this chapter or related laws or ordinances, and shall state wherein the interpretation, ruling, or order is erroneous. If the appeal is a request for variance, the petition shall point out the provision or provisions from which the variance is sought and how the request satisfies the requirements of this section.

Petitions to the Appeals Board, in appeals filed in accordance with § 941.25(A), may only be based on one of the following grounds:

- A. The interpretation, ruling, or order is erroneous or constitutes an erroneous application of the particular provisions of this chapter or other related laws or ordinances pertaining to stormwater management and finance, or is otherwise contrary to law, or
- B. A variance is necessary and feasible and meets all of the following conditions:
  - 1. Good and sufficient cause based on an unreasonable burden or hardship has been proven;
  - 2. The degree of variance is the minimum necessary to afford relief from the unreasonable burden or hardship imposed by this chapter or standards, specifications, requirements, regulations, and procedures adopted pursuant to this chapter;
  - 3. The variance may be granted without defeating the public health, safety, and welfare purposes and intent of this chapter or related laws or ordinances pertaining to stormwater management and finance.

## **§ 941.27 AMENDMENTS.**

- A. Whenever the public necessity, convenience, general welfare or good stormwater management practice requires, an amendment, supplement, or change may be considered by Council. Amendments may be initiated by Council, or by the filing of an application in the office of the Director by one or more of the owners or lessees of property within the Village affected by the proposed amendment or supplement.
- B. Applications for any change, amendment, or supplement shall be submitted and shall be accompanied by such data and information, as to assure the fullest practicable presentation of facts for the permanent record.
- C. Council action. Within 60 days after receipt of the application Council shall either adopt or deny the proposed amendment or adopt some modification thereof.
- D. Appeal to Council decision. Any person adversely affected by an order of Council adopting, amending, or rescinding any portion of this chapter may appeal to the Court of Common Pleas of Franklin County or Fairfield County (as applicable) on the grounds that Council failed to comply with the law in adopting, amending, rescinding or publishing such regulation, or that the regulation, as adopted or amended by Council is unreasonable or unlawful, or that the revision of the regulation was unreasonable or unlawful.

## **LEGAL ISSUES**

### **§ 941.97 FLOODING, LIABILITY.**

Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed, operated, or maintained by funds made available under this chapter. This chapter does not imply that property subject to the fees and charges established herein will always be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost effectively constructed, operated, or maintained. Nor shall this chapter create a liability on the part of, or cause of action against, the Village or any officer or employee thereof for any flood damage that may result from such storms or the runoff thereof. Nor does this chapter purport to reduce the need or the necessity for obtaining flood insurance.

### **§ 941.98 SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. Council declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

### **§ 941.99 PENALTIES.**

Any person, firm, or corporation who violates or fails to comply with a provision of this chapter shall be prosecuted within the limits provided by state and local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Violations shall be classified as misdemeanor of the fourth degree.